

June 7, 2006 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

Tinuade Oluwo (Unit Investors, LTD.)

06AN0275

Bermuda Magisterial District  
9001 Omaha Street

REQUEST: A Variance to use a parcel of land which fronts a dedicated but unimproved public road for dwelling purposes in a Residential (R-7) District.

RECOMMENDATION

Recommend denial for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not applicable generally to other properties in the area.
- B. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.

GENERAL INFORMATION

Location:

Property is known as 9001 Omaha Street. Tax ID 791-671-8706 (Sheet 18).

Existing Zoning:

R-7

Providing a FIRST CHOICE community through excellence in public service

Size:

2.2 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North -R-7; Residential and vacant  
South -R-7; Vacant  
East -R-7; Residential and vacant  
West -R-7; Residential

Utilities:

Public water and sewer

Transportation:

In order for the applicant to provide maintenance to this section of Omaha Street a license agreement must be obtained from the Board of Supervisors. License agreements typically require applicants to perform all maintenance to the access road within the right of way. In similar situations throughout the County, residents often request the County to perform maintenance on the right of way even though a private maintenance agreement exists. The County has no funds budgeted for this service.

General Plan:

(Jefferson Davis Corridor Plan)

Residential  
(2.51 – 4 units per acre)

DISCUSSION

The applicant requests a Variance to use a parcel of land which fronts along a dedicated, but unimproved, public road for dwelling purposes. The access to the dwelling will be over a fifty (50) foot dedicated road (Omaha Street) from Normandale Avenue to the subject property, from Point A to Point B, as shown on the attached map.

The applicant provides the following justification in support of this request:

I would like to build a single family residential home on site. Omaha Street is developed and maintained by the State, but the strip of Omaha Street right in front of the subject property is still a gravel road.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the property is eligible for the plat validation process. Therefore, the Board of Zoning Appeals must determine if Omaha Street must be constructed to State standards or a Variance granted to construct a dwelling on a lot which fronts along a dedicated but unimproved public road.

The plat submitted with this application shows Omaha Street as a fifty (50) foot wide unimproved public road. Within this unimproved public road, an access drive has been constructed of dirt, rock and gravel with little or no shoulder and drainage ditch. This access provides a road for eleven (11) families. Staff's field inspection revealed that the existing access road (Omaha Street) from Point A to Point B is currently acceptable and does not need to be improved at this time. However, staff suggests that the standard conditions be approved with this request if any conditions change in the future (pot holes, rutting, drainage, etc.). Also, staff notes that the applicant has indicated that he was told by VDOT that this portion of Omaha Street is in the State system. Staff spoke with VDOT and they indicated that this portion of the existing access road is not in the State system. The conditions will not be applicable if the applicant submits a letter from VDOT indicating that the existing access road (Omaha Street) from Point A to Point B is in the State system.

The subject property is owned by the applicant, Unit Investors, LTD. and was recorded in 1978. This request lies on 2.2 acres located off the southern line of Omaha Street approximately 200 feet south of Normandale Avenue. Omaha Street is a fifty (50) foot dedicated but unimproved road. The applicant plans to construct a single family dwelling on the subject property. The Crescent Park Subdivision which was recorded in 1976 is located to the northwest and northeast of the subject property. There are currently six (6) dwellings in the Crescent Park Subdivision that are currently using Omaha Street as their access.

As required by the Zoning Ordinance, the applicant has provided no information which would serve as a basis for granting this Variance. Staff finds no physical surroundings, shape or topographical conditions on the property which would present a particular hardship to the owner if this Variance were denied. Staff finds no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request.

Staff believes that the Board should deny this request for the reasons previously noted.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

## CONDITIONS

1. When the applicant applies for a building permit, the applicant shall provide a copy of a recorded instrument which will include:

A dedicated and unimproved County right of way from Point A to Point B, as shown on the plat attached to the staff report. The applicant shall provide a copy of the approved license agreement with the County if any work is required to be performed in the right of way.
2. The approved dedicated and unimproved County right of way shall meet the following requirements:
  - (a) The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the right of way in accordance with the standards set forth below;
  - (b) A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine its compliance with the following standards:
  - (c) The roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
  - (d) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
  - (e) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
  - (f) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
  - (g) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.

- (h) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
- 3. The house number shall be installed on the mailbox or a pole and located at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
- 4. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.

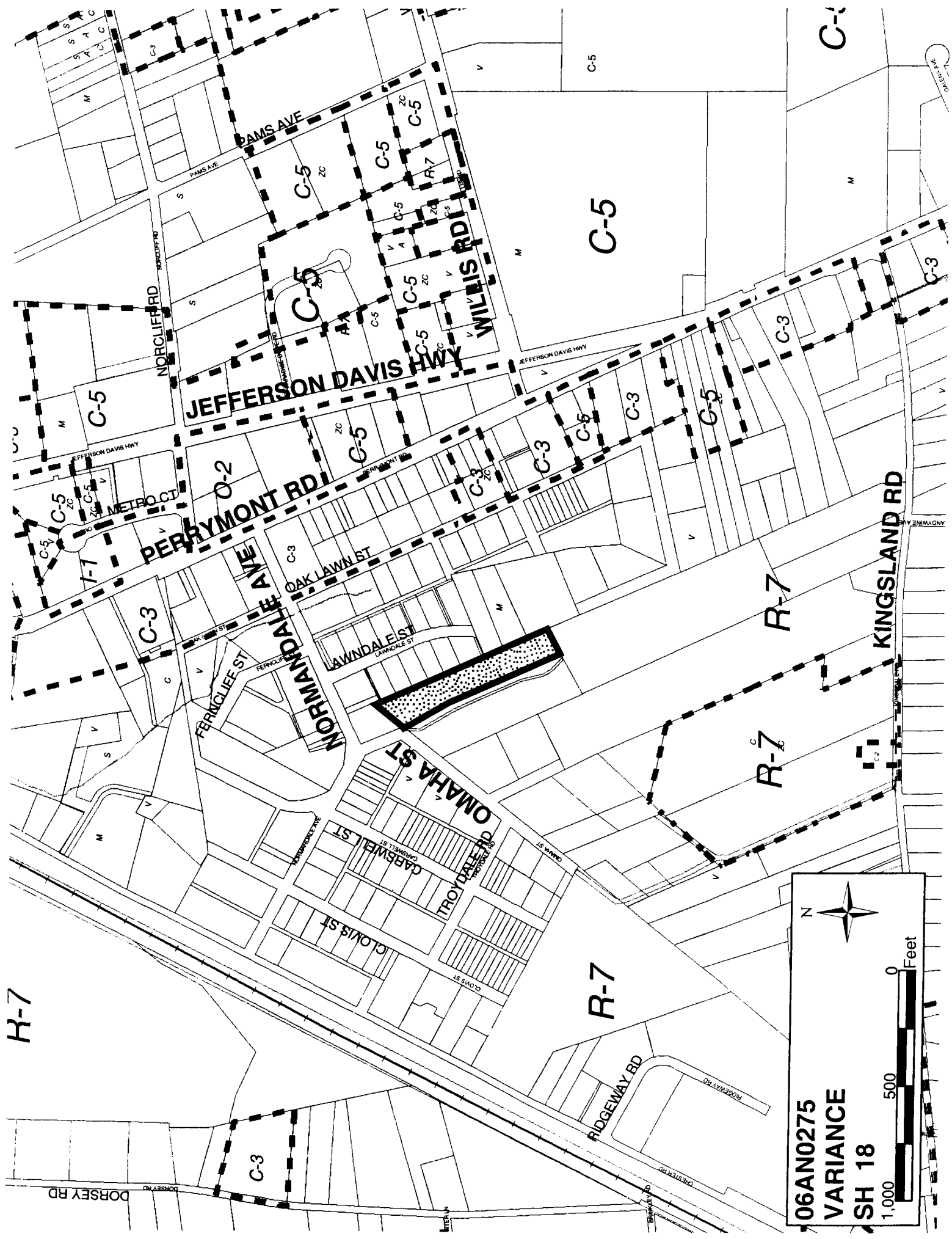
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#### CASE HISTORY

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5-24-06:

Staff spoke with a representative of the Virginia Department of Transportation (VDOT) concerning the portion of Omaha Street from Normandale Avenue that will be used to access the subject property. VDOT indicated that this portion of Omaha Street is not in the State system and is therefore not maintained by the State.



06AN0275  
VARIANCE  
SH 18





C-5

06AN0275

R-7

06AN0275-2

RD